

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

OCT 16 1998

In the Matter of)	
)	
Examination of Current Policy)	GC Docket No. 96-55
Concerning the Treatment of)	
Confidential Information Submitted)	
To the Commission)	

BELLSOUTH OPPOSITION TO PFR OF MCI WORLDCOM, INC.

BellSouth Corporation hereby opposes the Petition for Reconsideration ("PFR") filed September 17, 1998 by MCI Worldcom, Inc. ("MCI") in the captioned proceeding.

MCI has once again abused the Commission's processes and wasted its resources by filing a PFR that is made up almost entirely of rehashed arguments that have already been considered and rejected by the Commission. Indeed, MCI openly admits as much in the PFR. *See* PFR at 3 ("As MCI explained in its comments..."); PFR at 6 ("Although MCI has sought reconsideration of this interpretation..."); PFR at 9 ("As MCI also explained in its comments in this proceeding..."); PFR at 12 ("As MCI has repeatedly explained..."); PFR at 17 ("As MCI pointed out in its Petition for Reconsideration of the Tariff Streamlining Order..."). MCI's legal theory that it has due process and/or Administrative Procedures Act "rights" of access to tariff cost support material was thoroughly refuted in the Reply Comments of the Joint Parties filed July 16, 1996 at pages 6-13. There BellSouth and the other Joint Parties clearly demonstrated that MCI has no constitutional or statutory right to access confidential cost support information. MCI does not even address the showing made by the Joint Parties, much less overcome the force of those arguments. Its claim to a "right" of access to confidential cost support information is without merit, and should be denied.

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MCI's claim that the Commission's rules lack standards for evaluating requests for nondisclosure of confidential cost support materials is equally without merit. PRF at 6. Section 0.459(d) of the Rules specifically cross-references the provisions of the Freedom of Information Act, 5 U.S.C. § 552, which sets forth the statutory standard for non-disclosure. There is no reason for the Commission to restate the statutory standard in its Rule. MCI's claim in this regard must be rejected.

MCI's claim that the amendments to Section 204 in the 1996 Act created or expanded "due process" rights because it limits the time period for which damages awards are available is frivolous. PRF at 6-9. Congress created the right to seek damages from a carrier, and it clearly has the authority to limit the period of time for which damages awards are available. The amendments to Section 204 is no more an infringement of MCI's "right" to damages than a statute of limitations.

MCI's policy arguments in favor of public access to confidential cost support information are baseless. PFR at 9-16. The Freedom of Information Act balances the rights of the owner of confidential commercial information against the interests of third parties to access such information, and the Commission's policies and rules must respect that balance. MCI's request that the Commission redraw that balance to further its private interests is both contrary to law and anticompetitive in the extreme.

MCI claims that the Commission's FOIA procedures are too cumbersome, PFR at 16-17, and too slow, PFR at 17-21. Although MCI may get some vicarious pleasure from chiding the Commission for handling FOIA requests too slowly (in MCI's view), the relief it requests would amount to major rule changes that have not been subject to notice and comment.

MCI acknowledges that under Sections 0.459(g) and 0.461(h) of the rules, if a request for confidential treatment of tariff cost support material is rejected by the Commission staff, and the submitting carrier files an application for review by the Commission, the cost support material is not released to the FOIA requester during the pendency of the review. PFR at 18. MCI proposes to require that the information be released pursuant to a protective order pending a decision on the application for review. Disclosure, even pursuant to a protective order, prior to a Commission decision would effectively moot the application for review. As MCI acknowledges, the Commission has already stated that if the staff denies a carrier request for confidential information of cost support information and the carrier files an application for review, it is likely that the tariff will be suspended. PRF at 20. MCI wants the Commission to state "streamlined tariffs will *always* be suspended where the LEC is seeking complete confidentiality for cost support." PFR at 21. There is simply no reason for the Commission to limit its discretion in advance in such circumstances.

MCI's PFR contains arguments that have previously been presented to the Commission and properly rejected and requests for changes in the rules that are neither warranted nor properly subject to notice and comment. The PFR should be summarily denied.

Respectfully submitted,

BELLSOUTH CORPORATION

By its attorney:



M. Robert Sutherland

1155 Peachtree Street, N.E., Suite 1800

Atlanta, GA 30309-3610

(404) 249-4839

October 16, 1998

CERTIFICATE OF SERVICE

I , Margaret J. Herman, do hereby certify that I have this 16th day of October, 1998, serviced all parties to this action with the foregoing "OPPOSITION TO PFR OF MCI WORLDCOM, INC." reference GC DOCKET 96-55, by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid addressed to the parties as set forth on the attached service list.


Margaret J. Herman

Ed Shakin
Attorney for
The Bell Atlantic Telephone Companies
1320 North Court House Road - 8th Floor
Arlington, VA 22201

Gary L. Phillips
Attorney for
Ameritech
1401 H Street, N.W. - Suite 1020
Washington, D.C. 20005

Louise L. M. Tucker
Attorney for
Bell Communications Research, Inc.
Suite 600 - 2101 L Street, N.W.
Washington, D.C. 20037

Donald C. Rowe
Attorney for
NYNEX
Room 1206
1111 Westchester Avenue
White Plains, NY 10604

Lucille M. Mates
April J. Rodenald-Fout
Attorneys for
Pacific Bell and Nevada Bell
Room 1526
140 New Montgomery Street
San Francisco, CA 94105

James A. Kay, Jr.
Law Office of Robert J. Keller, P.C.
Suite 200
2000 L Street, N.W.
Washington, D.C. 20036

Robert B. McKenna
Attorney for
US West, Inc.
Suite 700
1020 19th Street, N.W.
Washington, D.C. 20036

ITS, Inc. **
1231 20th Street, N.W.
Washington, D.C. 20037

Office of the Secretary **
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

James D. Ellis
Robert M. Lynch
David F. Brown
Attorneys for SBC Communication, Inc.
175 E. Houston - Room 1254
San Antonio, TX 78205

Durward D. Dupre
Mary W. Marks
J. Paul Walters, Jr.
Attorneys for SBC Communications, Inc.
One Bell Center - Roo 3520
St. Louis, MO 63101

Robert J. Keller
Attorney for James A. Kay, Jr.
Law Office of Robert J. Keller P.C.
2000 L Street, N.W. - Suite 200
Washington, D.C. 20036

Paul B. Jones
Janis A. Stahlhut
Donald F. Shephard
Time Warner Communications Holdings, Inc.
300 Stamford Place
Stamford, CT 06902

Brian Conboy
John McGrew
Thomas Jones
Wilkie Farr & Gallagher Attorneys for Time Warner
Communications Holdings, Inc.
Three Lafayette Centre - 1155 21st St., N.W.
Washington, D.C. 20036

Joe D. Edge
Tina M. Pidgeon
Drinker, Biddle & Reath Attorneys for
General Communication, Inc.
901 Fifteenth Street, N.W.
Suite 900
Washington, D.C. 20005

David J. Gudino
Attorney for GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Bruce Aitken
Martin J. Lewin
Aitken Irvin Lewin Berlin Vrooman & Cohn, LLP
1709 N Street N.W.
Washington, D.C. 20036

Jay C. Keithley
Leon M. Kestenbaum
Sprint Corporation
1850 M. St., N.W., Suite 1110
Washington, D.C. 20036

Joseph P. Cowin
Attorney for
Sprint Corporation
P. O. Box 11315
Kansas City, MO 64112

David L. Meier
Director, Legislative & Regulatory Planning
Cincinnati Bell Telephone
201 E. Fourth Street
Cincinnati, OH 45102-2301

Thomas E. Taylor
Nancy Rue
Frost & Jacobs - Attorneys for
Cincinnati Bell Telephone Company
2500 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

Daniel L. Brenner
Loretta P. Polk
Counsel for the National Cable Television
Association, Inc.
1724 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Barry A. Friedman, Esq.
Scott A. Fenske, Esq.
Thompson Hine & Flory P.L.L.
1920 N. Street, N.W.
Suite 800
Washington, D.C. 20036

Curtis Knauss, Esq.
Aitken, Irvin, Lewin, Berlin, Vrooman & Cohn
1709 N Street, N.W.
Washington, D.C. 20036

Alan M. Lurya, Esq.
Law Office of Alan M. Lurya
500 N. State College Blvd. #1200
Orange, CA 92668

Frank W. Krogh
Mary L. Brown
MCI Worldcom, Inc.
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

****VIA HAND DELIVERY**